

Message Text

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ORIGIN OES-04

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TO AMEMBASSY BRASILIA PRIORITY

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TAGS:EFIS, BR

SUBJECT: US-BRAZIL SHRIMP FISHING AGREEMENT

REF: A - BRASILIA 08771

B - STATE 235929

1. DEPARTMENT BELIEVES EMBASSY SHOULD ONCE AGAIN REITERATE
TO GOB US DESIRE TO EXTEND PRESENT AGREEMENT THROUGH THE
1975 FISHING SEASON OR AT LEAST UNTIL A NEW AGREEMENT IS
NEGOTIATED. EXTENSION SHOULD BE EFFECTED PRIOR TO EXPIRA-
TION OF PRESENT AGREEMENT DECEMBER 31. IN CONVERSATION WITH
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GOB, EMBASSY MAY DRAW ON ARGUMENTS CONTAINED REFTEL B AS

WELL AS THIS CABLE. OF COURSE, EMBASSY SHOULD ALSO REPEAT OUR WILLINGNESS TO NEGOTIATE A NEW AGREEMENT IF THE GOB SO DESIRES.

2. GOB HAS INDICATED IT COULD NOT RENEGOTIATE AGREEMENT MUCH BEFORE END OF JANUARY. WITH THE INTERMINISTERIAL COUNCIL ON RESOURCES OF THE SEA YET TO EXAMINE RECOMMENDATIONS AND NAVY REVIEW OF THE FOREIGN MINISTRY'S POSITION STILL PENDING, COMMENCEMENT OF NEGOTIATIONS MIGHT BE DELAYED EVEN FURTHER. GENEVA LAW OF SEA CONFERENCE BEGINS MARCH 17, AND US NEGOTIATORS' SCHEDULE FOR PERIOD BETWEEN NOW AND THEN IS ALREADY VERY TIGHT. WE ASSUMED THAT GOB WOULD WANT TO

EXTEND OR RENEGOTIATE THE PRESENT AGREEMENT BEFORE IT EXPIRED, AND CONSEQUENTLY, IN OUR ATTEMPTS TO ORGANIZE AN EXTREMELY BUSY SCHEDULE OF FISHING NEGOTIATIONS, WE KEPT FIRST HALF OF DECEMBER (SEE REFTTEL B) OPEN FOR NEGOTIATIONS WITH BRAZIL. HAVING LEARNED AT LATE DATE THAT NEGOTIATIONS IN DECEMBER WOULD NOT BE POSSIBLE, USG MUST NOW REVIEW NEGOTIATING SCHEDULES AND REARRANGE NEGOTIATING TEAMS IN ORDER TO MEET AFTER FIRST OF YEAR. ALSO, PREPARATION FOR LOS NEGOTIATIONS WILL REQUIRE A GREAT DEAL OF ATTENTION WHICH WILL COMPLICATE OUR EFFORTS TO FOCUS ON THE SHRIMP AGREEMENT AFTER DECEMBER 31.

3. EVEN IF GOB DECISION IS REACHED IN EARLY JANUARY, TALKS PROBABLY COULD NOT BEGIN BEFORE FEBRUARY. WITH FISHING SEASON OPENING MARCH 1, THIS WOULD PROVIDE LIMITED TIME TO MAKE THE ADMINISTRATIVE ADJUSTMENTS IN FISHERY WHICH MAY RESULT FROM THE RENEGOTIATION. MOREOVER, COMPLETE RENEGOTIATION OF THE AGREEMENT ONE MONTH PRIOR TO BEGINNING OF LOS CONFERENCE WOULD NOT SEEM TO BE IN THE BEST INTEREST OF EITHER COUNTRY. BY EARLY MAY INTERNATIONAL PRINCIPLES REGARDING FISHING WILL LIKELY BE CLEARER AND MORE MEANINGFUL NEGOTIATIONS CONCERNING SHRIMP CAN TAKE PLACE AFTER THAT TIME.

4. IN THE EVENT THAT AGREEMENT IS ALLOWED TO LAPSE ON DECEMBER 31, RENEWAL OR RENEGOTIATION WOULD REQUIRE USG TO PURSUE COMPLICATED AND TIME-CONSUMING INTERNAL LEGAL PRO-LIMITED OFFICIAL USE

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CEDES WHICH WOULD BE GREATLY SIMPLIFIED IF AGREEMENT IS EXTENDED. THESE PROCEDURES INVOLVE CONGRESSIONAL HEARINGS, APPROVAL OF THE AGREEMENT BY THE SENATE FOLLOWED BY PRESIDENTIAL RATIFICATION, EXCHANGE OF NOTES BETWEEN USG & GOB REGARDING ENTRY INTO FORCE, AND PASSAGE OF LEGISLATION IMPLEMENTING THE AGREEMENT AND APPROPRIATING FUNDS, BOTH OF WHICH WILL INVOLVE ADDITIONAL HEARINGS AND APPROVAL BY BOTH HOUSE AND SENATE. IT WOULD NOT BE POSSIBLE TO COM-

PLETE THESE PROCEDURES BEFORE SHRIMP SEASON BEGINS MARCH 1. THEREFORE, UNTIL THESE LEGAL REQUIREMENTS WERE SATISFIED, USG WOULD BE UNABLE TO ENFORCE NEW AGREEMENT IN ANY WAY OTHER THAN ENCOURAGING VOLUNTARY COMPLIANCE AS IN THE PAST. EVEN EXISTING IMPLEMENTING LEGISLATION (WHICH EXPIRES JUNE 15, 1975) IS NOT AVAILABLE EXCEPT IN IMPLEMENTATION OF THE AGREEMENT OF MAY 9, 1972, AND RELATED DOCUMENTS, AS THEY MAY BE AMENDED FROM TIME TO TIME. IF AGREEMENT IS NOT EXTENDED, NEW AGREEMENT WILL NOT BE THE AGREEMENT OF MAY 9, 1972 REFERRED TO IN LEGISLATION, EVEN IF TERMS ARE IDENTICAL. NO LEGAL IMPLEMENTING AUTHORITY WOULD EXIST.

EXTENSION THROUGH THE NEXT SEASON IS THEREFORE NECESSARY TO AVOID A GAP IN OUR ABILITY TO ENSURE COMPLIANCE WITH CONSERVATION ARRANGEMENTS AND AVOID POSSIBLE JURIDICAL CONFLICT IF OUR SHRIMPERS TAKE SHRIMP DURING LEGAL GAP UNDER HIGH SEAS FREEDOM.

5. THE USG FEELS THAT IRRESPECTIVE OF THE ULTIMATE GOB DECISION ON THE QUESTION OF LONG-TERM EXTENSION OR RENEGOTIATION, IT IS CRITICAL THAT AGREEMENT NOT BE ALLOWED TO EXPIRE DECEMBER 31. WHILE A TEMPORARY EXTENSION UNTIL MARCH 1 WOULD HAVE NO PRACTICAL EFFECT ON THE FISHERY, WE FEEL IT IS IMPORTANT BECAUSE IF AGREEMENT EXPIRES THEN INTERNAL U.S. PROCEDURES AS MENTIONED PARAGRAPH 4 WOULD VERY LIKELY HAVE TO BE PURSUED EVEN IF AGREEMENT EXTENDED OR ONLY SLIGHTLY MODIFIED. IF AGREEMENT DOES NOT LAPSE, LATER INTERNAL PROCEDURES WOULD BE GREATLY SIMPLIFIED. IN REQUESTING THIS TEMPORARY EXTENSION, EMBASSY MAY WANT TO MAKE POINT THAT WE HOPE GOB CONSIDERATION OF THIS REQUEST WILL NOT DIVERT THEM FROM REVIEWING PROPOSAL FOR EXTENSION THROUGH THE ENTIRE 1975 FISHING SEASON. INGERSOLL

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